(2)

91-1789

Supreme Court, U.S.
FILED
MAY 1 1992
OFFICE OF THE CLERK

No.

IN THE SUPREME COURT
OF THE UNITED STATES

OCTOBER TERM 1991

FRANK A. PECORA, Senator,
44th Pennsylvania Senatorial District,

Petitioner,

v.

PENNSYLVANIA LEGISLATIVE REAPPORTIONMENT
COMMISSION,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF PENNSYLVANIA

PETITIONER'S APPENDIX

Anthony J. Martin
Counsel of Record
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(412) 372-3879

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[J-32 through 56-1992]
IN THE SUPREME COURT OF PENNSYLVANIA

In Re 1991 PENNSYLVANIA LEGISLATIVE REAPPORTIONMENT COMMISSION	: Nos. 190, 191, 194, 196, 197, 199, 200, and 201 E.D. Misc. Docket 1991 : : Petitions for Review of the 1991 Pennsylvania Legislative Reapportionment Commission's Final Plan : : Nos. 49, 50, 51, 52 53, 54, 56, and 57 M.D. Misc. Docket 1991 : : Petitions for Review of the 1991 Pennsylvania Legislative Reapportionment Commission's Final Plan : : Nos. 124, 132, 133, 134, 135, 136, 137, 138, and 141 W.D. Misc. Docket 1991 : : Petitions for Review of the 1991 Pennsylvania Legislative Reapportionment Commission's Final Plan : : ARGUED: January 25, 1992

O R D E R

PER CURIAM

AND NOW, this 14th day of February, 1992, pursuant to Article 2, Section 17(d) of the Pennsylvania Constitution, this Court, after consideration of the objections raised in the above-captioned petitions, finds that the Final Plan of the 1991 Pennsylvania Legislative Reapportionment Commission is not contrary to law, and the Petitions for Review are denied.

The deadline of February 18, 1992 for filing of nominating petitions is hereby extended until the close of business hours on Friday, March 6, 1992.

It is further ordered that as to the nominating signatures acquired prior to the date of this order, the same shall be deemed valid as to timeliness, subject,

however, to any other statutory challenge.

Opinions will follow.

Mr. Justice Larsen did not participate in the consideration or decision of these cases.

Mr. Justice Flaherty did not participate in the consideration or decision of Nos. 190, 194, 196, 199 and 201 E.D. Misc. Dkt. 1991; Nos. 49 and 51 M.D. Misc. Dkt. 1991; and No. 138 W.D. Misc. Dkt. 1991.

Mr. Justice Papadakos did not participate in the consideration or decision of Nos. 190, 194, 196, 199 and 201 E.D. Misc. Dkt. 1991; Nos. 49 and 51 M.D. Misc. Dkt. 1991; and No. 138 W.D. Misc. Dkt. 1991.

IN THE SUPREME COURT OF PENNSYLVANIA
WESTERN DISTRICT

FRANK A PECORA, Senator, 44th Senatorial District,	:	
Petitioner,	:	
vs.	:	NO. 132 W.D. MISCELLANEOUS
PENNSYLVANIA LEGISLATIVE REAPPORTIONMENT COMMISSION,	:	DOCKET 1991
Respondent.	:	

PETITION FOR REVIEW

TO THE LEGISLATIVE REAPPORTIONMENT COMMISSION:

You are hereby notified to plead to the enclosed PETITION FOR REVIEW within thirty (30) days from service hereof.

Anthony J. Martin, Esquire
Pa. I.D. No. 00091

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(412) 372-3879

Counsel for Petitioner

IN THE SUPREME COURT OF PENNSYLVANIA
WESTERN DISTRICT

FRANK A. PECORA, Senator, 44th Senatorial District,	:
Petitioner,	:
vs.	:
PENNSYLVANIA LEGISLATIVE REAPPORTIONMENT COMMISSION,	:
Respondent.	:

PETITION FOR REVIEW

1. Jurisdiction of this Honorable Court is based upon Section 17(d) of Article II of the Constitution of Pennsylvania, and Pennsylvania Rules of Appellate Procedure, Rule 3321 and Rule 1501, and in accordance with Rule 1511.

2. On or about September 25, 1991, the Legislative Reapportionment Commission, following its review and discussion of the Preliminary Reapportionment Plan, and after a majority vote of the Commis-

sion adopting the Plan, ordered said Plan to be filed with the election office.

3. Pursuant to the requirements of Article II, Section 17(c), the Commission held a public meeting on October 9, 1991, whereat any person aggrieved by the Preliminary Plan was granted the right to file Exceptions to the Plan with the Commission.

4. On October 9, 1991, Petitioner filed his written Exception, with Memorandum In Support thereof, with the Commission. It is noted that Petitioner was elected to the Senate in the 44th Senatorial District in 1978, and was re-elected in 1982, 1986 and 1990.

5. The Commission, at its meeting held on November 15, 1991, rejected the Petitioner's Exceptions and, as a result thereof, the Commission's Plan thereupon

became final and this Petition For Review follows.

6. The objections to the Preliminary Reapportionment Plan, which the Respondent has rejected and which form the basis for this Petition For Review, are as follows:

a. The Respondent, by eliminating the Petitioner's 44th Senatorial District, in mid-term, has violated various provisions of the Constitution of Pennsylvania, the right to petition as guaranteed by the First and Fourteenth Amendments of the Constitution of the United States, the Equal Protection Clause of the Constitution of the United States, controlling decisional law of the Federal Courts and of the Courts of the Commonwealth of Pennsylvania.

b. The Respondent, by eliminating the Petitioner's 44th Senatorial

District, in mid-term, has violated not only Pa. Const. art. II, §§2 and 3, prescribing a four-year term for Senators elected to the General Assembly, but has also violated and ignored prior Legislative Reapportionment Commission Plans, applicable to the Federal dicennial [sic] censuses of 1970 and 1980, which complied with Constitutional standards and decisional law applicable to 1960 Federal dicennial [sic] census. In 1970, the odd-numbered districts were changed, and in 1980 the even-numbered districts were changed, thereby insuring no mid-term Senatorial term termination. It follows that only the odd-numbered Senatorial terms in 1990 would comply with this Constitutional mandate.

c. A review of the record of the Legislative Reapportionment Commission held on September 25, 1991, compel-

lingly supports the conclusion of fact and law that the Commission, in adopting the subject Plan, ignored factors which are mandated by the Constitution and applicable decisional law, but also reflected factors specifically rejected by decisional law and have no basis in the Constitution of Pennsylvania nor the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution in adopting its Final Plan.

7. Petitioner did submit to the Respondent, at the hearing of October 9, 1990, a recommended alternative Reapportionment Plan, limiting the elimination of a Senatorial district to the odd-numbered districts in Allegheny County, which is consistent with all applicable Constitutional provisions of both the Commonwealth of Pennsylvania and of the United States, the decisional law of the

Federal and Pennsylvania Courts, as well as the constitutionally appropriate prior action of the prior Reapportionment Commissions in 1970 and 1980. In addition, Petitioner's alternative Reapportionment Plan proposes districts with population deviations that are comparable to and not significantly, if at all, greater than those contained in the Respondent Commission's Final Plan.

8. The Respondent, by conforming with Constitutional mandates and setting aside a nefarious ulterior motive, would well have avoided a Constitutional crisis by simply eliminating one of the odd-numbered districts (Senatorial Districts 37, 43 and 45) in Allegheny County, and moving said district to eastern Pennsylvania. This fair and Constitutionally appropriate action would not only have avoided violating Pa. Const. art. II, §§

2 and 3, by obviating the need to truncate Petitioner's four-year Senatorial term in mid-term, but would also have avoided the serious infringement and deprivation of the fundamental right to petition, as guaranteed by the First and Fourteenth Amendments of the Constitution of the United States and by Pa. Const. art I, §§ 1, 20, 25 and 26, of those citizens of eastern Pennsylvania who have been deprived of any and all representation in the Senate House for two years under the Respondent Commission's Plan.

9. The Respondent's Final Plan has failed to eliminate an odd-numbered Senatorial district in Allegheny County, which would have satisfied all Constitutional and decisional law criteria applicable to the Federal dicennial [sic] census requiring reapportionment, and thereby have preserved Petitioner's Sena-

torial term, as mandated by the Pennsylvania Constitution, Pa. Const. art. II, §§ 2 and 3, and afforded full protection to the fundamental right of the citizens of Pennsylvania to petition their legislature as guaranteed by the First and Fourteenth Amendments of the United States Constitution and Pa. Const. art. I, §§ 1, 20, 25 and 26.

10. Petitioner, therefore, reaffirms and re-alleges, as against the Respondent's Final Plan, each and every allegation and basis therefore in the Petitioner's Exceptions to the Preliminary Reapportionment Plan, and further, by reason of the availability of the Respondent's transcript of its proceedings on September 25, 1991, received by the Petitioner subsequent to October 9, 1991, Petitioner alleges that the Commission relied upon and utilized criteria

for the adoption of its plan which are not recognized nor supported by law.

WHEREFORE, your Petitioner prays that this Honorable Court review the Final Legislative Reapportionment Plan of the Legislative Reapportionment Commission, and that:

(1) This Court set aside the portion of the final Plan eliminating the 44th Senatorial District in Allegheny County, thereby preserving said District, and allow Petitioner to serve his full four-year term; and (2) eliminate one of the three odd-numbered Senatorial Districts in Allegheny County, allocating the population of said three districts in accordance with law, and designating the eliminated odd district to the eastern portion of Pennsylvania to the area identified as the new 44th Senatorial District in the Respondent's Final Plan.

Respectfully submitted,

By: /s/
Anthony J. Martin, Esquire
Counsel for Petitioner

COMMONWEALTH OF PENNSYLVANIA)
) SS:
COUNTY OF ALLEGHENY)

Before me, the undersigned authority, personally appeared Anthony J. Martin, Esquire, counsel for Petitioner, who, being duly sworn according to law, deposes and says that the averments contained in the foregoing Petition for Review are true and correct to the best of his knowledge, information and belief.

/s/
Anthony J. Martin, Esquire

Sworn to and subscribed
before me this 4th day
of December, 1991.

/s/
Carol A. Richardson
Notary Public

Notarial Seal
Carol A. Richardson, Notary Public
Trafford Boro, Westmoreland County
My Commission Expires March 18, 1995
Member, Pennsylvania Association of
Notaries

CERTIFICATE OF SERVICE

I, Anthony J. Martin, Esquire, do hereby certify that a copy of the within Petition for Review has been served by first-class mail, postage prepaid on each of the following on this 9th day of December, 1991.

Commonwealth of Pennsylvania
Legislative Reapportionment Commission
612 North Office Building
Harrisburg, PA 15120
(To the following persons:)

Robert J. Cindrich, Esquire, Chairman
Honorable F. Joseph Loeper, Senate Majority Leader
Honorable Robert J. Mellow, Senate Minority Leader
Honorable H. William DeWeese, House Majority Leader
Honorable John M. Perzel, House Minority Policy Chairman
Honorable Allen Kukovich, Deputy Commissioner for Hon. H. William DeWeese

Honorable Ernest D. Preate, Jr.
Attorney General, Commonwealth of Pennsylvania
16th Floor
Strawberry Square
Harrisburg, PA 17120

/s/
Anthony J. Martin, Esquire
Counsel for Petitioner

IN THE SUPREME COURT OF PENNSYLVANIA
WESTERN DISTRICT

FRANK A PECORA, Senator, 44th Senatorial District,	:	
Petitioner,	:	
vs.	:	NO. 132 W.D. MISCELLANEOUS DOCKET 1991
PENNSYLVANIA LEGISLATIVE REAPPORTIONMENT COMMISSION,	:	
Respondent.	:	

BRIEF OF PETITIONER

Appeal from the Final Plan of the Legislative Reapportionment Commission filed November 15, 1991

Anthony J. Martin, Esquire
Pa. I.D. No. 00091

MARTIN AND MARTIN, P.C.
Law Firm No. 179
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Monroeville, PA 15146
(412) 372-3879

Counsel for Petitioner

. . . Petitioner does argue that these citizens will be disenfranchised for a period of two years, a time during which they will not have the ability to petition those invested with the power of government for the redress of their grievances in violation of Article I, Section 20, of the Pennsylvania Constitution.

Our state Constitution, by various sections of Article I, provides that all men "have certain inherent and indefeasible rights," among them the right to address by petition those invested with the powers of government, and that this right to petition "shall remain forever inviolate." Pa. Const. Art. I, §§1, 20, 25; Spayd v. Ringing Rock Lodge, 270 Pa. 67, 113 A.70, 72 (1921). The right to petition is a fundamental one, expressly recognized in the organic law of our

state as belonging to "citizens." Spayd v. Ringing Rock Lodge, supra. It is among the basic rights of human beings, "the Hallmarks of Western Civilization," that is not created by the constitution, but preserved by it. Western Pennsylvania Socialist Workers 1982 Campaign v. Connecticut General Life Insurance Co., 512 Pa. 23, 515 A.2d 1331, 1335 (1986); Spayd v. Ringing Rock Lodge, supra. ("The Constitution does not confer the right, but guarantees its free exercise, without let or hindrance from those in authority, at all times, under any and all circumstances"). The right to petition the Pennsylvania legislature is further guaranteed by the First and Fourteenth Amendments of the Federal Constitution. See Eastern Railroad Presidents' Conference v. Noerr Motor Freight, Inc., 365 U.S. 127, 138 (1961); Novosel v.

Nationwide Insurance Co., 721 F.2d 894, 899 n.7 (3d Cir. 1983); Richards Furniture Corp. v. Board of County Commissioners, 233 Md. 249, 196 A.2d 621, 627 (1964) ("The right of petition guaranteed by the First Amendment to the Federal Constitution has now been extended so as to prevent its denial by the State").

Similarly, the Court in the Colorado reapportionment case cited above stated:

> The Colorado Constitution, Art. V, Section 48, provides that following the federal census, "the senatorial and representative districts shall be established, revised, or altered, and the members of the senate and the house of representatives apportioned among them..." This constitutional mandate is not an empty maxim that districts are to be allocated a seat in the general assembly which may or may not be filled for a period of time. Rather, it is a result of either a resident holdover senator or the election of a new senator upon implementation of the reapportionment plan. A contrary construction, which would allow a district to re-

> main unrepresented for two years, would not only offend this provision of the constitution, but would also be inconsistent with the system of representative government contemplated in other provisions of our constitution. [Emphasis added.]

In further support of its position, the court enunciated the following cogent constitutional right:

> Colo. Const. Art. II, §24 guarantees the right of the people to petition "those invested with the powers of government for the redress of grievances." While that right does not limit citizens to petitioning only those representatives for whom they have voted, it is clear that legislators will be most responsive to citizens who place them in office and who, more importantly, reserve the power to remove a particular legislator from office during his term or return him to office by reelection. Full protection of this constitutional right requires that each district have an identifiable representative at all times.

647 P.2d at 199 (emphasis added).

It is also noted that this issue was addressed in McCall v. Legislative Assembly, 291 Or. 663, 634 P.2d 223, 235 (1981), which struck down a reapportionment plan requiring a district to go unrepresented for two years as violative of certain provisions of the Oregon Constitution, including the Oregon equivalent of the right to petition, Or. Const. Art. I, §26, which guarantees to citizens the freedom of "instructing their Representatives."

In addition, the Commission's indefensible action in renumbering the new district as 44, rather than 37, 43 or 45, thereby disenfranchising its electors, is violative of Article I, Sections 2 and 5 of the Pennsylvania Constitution. The Commission has interfered with the electors' free exercise of the right of suffrage, as well as interfering with the

political powers vested in the people to exercise their inalienable and indefeasible right to alter, reform, or abolish their government in such a manner they think proper.

The Colorado Supreme Court, in In Re: Reapportionment of the Colorado General Assembly, supra, states further:

> The residents of district 13 will not be able to recall the state senators for whom they originally voted because, as a result of the reapportionment, those senators are located in other districts and the residents of district 13 would not be entitled to vote for the successor of the recalled representative; nor will they be able to exercise the recall power over a new senator representing district 13, since, under the present reappportion[.]

* * *

II. THE ELIMINATION OF ONE OF THE THREE ODD-NUMBERED SENATORIAL DISTRICTS IN ALLEGHENY COUNTY, AND ALLOCATING THE REMOVED SENATORIAL DIS-

TRICT TO EASTERN PENNSYLVANIA, WHICH WOULD NOT INVOLVE THE MID-TERM ELIMINATION OF A SENATOR'S CONSTITUTIONAL TERM, IS IN ACCORDANCE WITH THE PENNSYLVANIA CONSTITUTION, THE EQUAL PROTECTION CLAUSE OF THE UNITED STATES CONSTITUTION, AND WITH THE PRIOR LEGISLATIVE REAPPORTIONMENT PLANS OF 1960, 1970 AND 1980.

II. A review of the relevant statistical data related to the Commission's recommendation pertaining to Allegheny County:

Districts represented by Democrats	Population Loss
Dist. 43 (Sen. Dawida)	26,687
Dist. 45 (Sen. Belan)	26,796
Dist. 38 (Sen. Bodack)	30,506
Dist. 42 (Sen. Scanlon)	17,943
Total Loss	101,632

Districts represented by Republicans	Population Loss
Dist. 37 (Sen. Fisher)	8,570
Dist. 40 (Sen. Hart)	2,297
Dist. 44 (Sen. Pecora)	13,776
Total Loss	24,643

Prior to the Reapportionment Commission study and recommendation, the population loss reflects a slightly higher than a 4 to 1 ratio loss of population in Senatorial districts represented by incumbent Democrats who have four (4) elected Senators as to the Republicans' three (3) elected Senators.

Let us now analyze the population losses in terms of odd districts and even numbered districts.

Odd Districts (Subject to Election--1992)

Dist.	Party Affil.	1990 Pop.	Loss
37	(Sen. Fisher-Rep.)	229,901	8,570

43	(Sen. Dawida-Dem.)	212,035	26,687
45	(Sen. Belan-Dem.)	210,735	26,796

Even Districts

38	(Sen. Bodack-Dem.)	208,321	30,506
40	(Sen. Hart-Rep.)	234,439	2,297
42	(Sen. Scanlon-Dem.)	218,170	17,943
44	(Sen. Pecora-Rep.)	223,153	13,776

2. An alternative plan which meets Constitutional and decisional law mandates:

The three Odd Districts up for election in 1992 have a total population of 662,689.

In order to minimize the impact of reapportionment as related to the con-

tinued incumbency of the even-numbered districts to the year 1994, and yet address the "one vote/one person" rule requirement, it is suggested that the following proposal is fair and equitable as required by the Equal Protection Clause of the United States Constitution and decisional law:

> The reduction of the odd-numbered districts from three to two allows 532,689 people to preserve their right to elect a State Senator in 1992. The remaining 130,000 current residents would be placed in the adjoining even-numbered districts, taking into consideration geographic, economic, social and cultural factors, as well as such other factors discussed in applicable case law. Those 130,000 people, so realigned, would have the

right to vote for a Senator two years (1994) after the current right to vote (1992).

The two odd districts would then each have 264,244 people. The allocation of the 130,000 to the even Senatorial districts is suggested as follows:

Dist. 38 (Sen. Bodack) D
208,321 + 45,000 = 253,321

Dist. 40 (Sen. Hart) R
234,439 + 20,000 = 254,439

Dist. 42 (Sen. Scanlon) D
218,170 + 35,000 = 253,170

Dist. 44 (Sen. Pecora) R
223,153 + 30,000 = 253,153

The variation of the average even-numbered districts to the revised two odd-numbered districts is less than five percent (5%), which meets the "one vote/ one person" criteria when taking into consideration all other fair and equitable factors.

The elimination of one odd district can result in both remaining odd districts electing two (2) Democrats, or one Democrat and one Republican, with little or no possibility of two Republicans. If two Democrats are elected, then the ratio will be 2 Republicans - 4 Democrats; if one Republican and one Democrat, then the ratio would be 3 Democrats - 3 Republicans.

* * *

. . . each of the Constitutions of our 50 States. Furthermore, the decisions of this Court, and of the Supreme Court of the United States, have addressed the concept of fairness or justice from their inception.

A fair trial and the elements of a fair society committed to justice and freedom have been addressed by our legal system, which has established appropriate

and unalterable concepts of fairness and justice.

The law relating to the appropriate standards to be utilized in legislative reapportionment activities establish the criteria of fairness and the fundamental factors which shall govern legislative reapportionment activities and the implementation of reapportionment plans.

In Abate v. Mundt, 403 U.S. 182 (1971), and in Gaffney v. Cummings, 412 U.S. 735 (1973), the Supreme Court noted that a reapportionment plan also violates the Fourteenth Amendment in that a plan is drawn with a built-in purposely created bias favoring political interest.

In Kluhr v. Williams, 313 F.Supp. 148 (DC Ariz. 1970), the District Court rejected a redistricting plan which used incumbency and party strength as prevalent factors in the reapportionment.

In Kurcher v. Duggett, 462 U.S. 725 (1983), the Supreme Court stated:

> "Adopting any standard other than population equality, using the best census data available, would subtly erode the Constitution's ideal of equal representation. If state legislators knew that a certain deminimis level of population differences was acceptable, they would doubtless strive to achieve that level rather than equality."

As Justice Musmanno noted in his dissent in Butcher, supra, in discussing the numbering of senatorial districts, "It has been said that gerrymandering can be accomplished sometimes as effectively by numbers as well as by formulation of strangely-shaped election districts."

It is evident from the record of the public hearings by the LRC that the deciding vote on eliminating Petitioner's 44th Senatorial District, in mid-term, was premised solely upon party registration factors conceptualized by Chairman

Cindrich, which totally ignored the standards of fairness and equality recognized by the Supreme Court. As Justice Musmanno noted, Chairman Cindrich was engaged in numerical gerrymandering which was designed to establish a political "arrangement" which, in his judgment, was designed to meet party registration census and not the "one vote/one person" Constitutional standard.

Respondent may place reliance upon Davis v. Bandemer, 478 U.S. 109 (1986), in its attempt to deny Petitioner's assertion that the elimination of his district amounted to an unconstitutional political gerrymandering.

In Davis, supra. [sic] the Indiana state legislature, both houses of which had Republican majorities, and Indiana's Republican Governor approved a legislative district reapportionment plan which

was allegedly designed to maintain Republican control of the legislature. The plan was recommended by a conference committee consisting entirely of Republicans, and Democrats were excluded from the map-making process and had only 40 hours to examine and respond to the plan from the time it was revealed until its passage by the legislature. A number of Indiana Democrats filed suit against various state officials in Indiana federal district court, alleging that the reapportionment plan was intended to and did violate their right, as Democrats, to equal protection under the Fourteenth Amendment. Before the case went to trial, elections were held under the newly approved reapportionment plan in which Democratic House candidates won 51.9% of the statewide vote but only 43 of the 100 seats, while Democratic Senate candidates

won 53.1% of the statewide vote and 13 of 25 seats up for election. A three-judge panel of the district court declared the reapportionment plan unconstitutional under the equal protection clause.

On appeal, the Supreme Court reversed. The Court, by a vote of 6 to 3, held that a political gerrymandering claim, alleging that a reapportionment plan for state legislative districts violates the rights of members of a political party to the equal protection of the laws under the Fourteenth Amendment because the district lines were drawn with the intention and effect of disadvantaging members of that party, is not a nonjusticiable political question, but presents a justiciable controversy. 478 U.S. at 124-25. This Court majority, however, split over the question of whether the plaintiffs had in fact pre-

sented a viable political gerrymandering claim.

A plurality of four Justices (Justices White, Brennan, Marshall, and Blackman) concluded that the plaintiffs in a political gerrymandering case are "required to prove both intentional discrimination against an identifiable political group and an actual discriminatory effect." Id. at 127. Moreover, according to the plurality, "unconstitutional discrimination occurs only when the electoral system is arranged in a manner that will consistently degrade a voter's or a group of voters' influence on the political process as a whole." Id. at 132. In other words, "a finding of unconstitutionality must be supported by evidence of continued frustration of the will of a majority of the voters or effective denial to a minority of voters

of a fair chance to influence the political process." Id. at 133.

The plurality, therefore, rejected the District Court's "apparent holding that any interference with an opportunity to elect a representative of one's choice would be sufficient to allege or make out an equal protection violation, unless justified by some acceptable state interest that the State would be required to demonstrate." Id. (emphasis in original). It further reasoned that relying on a single election to prove unconstitutional discrimination is unsatisfactory," saying:

> The District Court observed, and the parties do not disagree, that Indiana is a swing State. Voters sometimes prefer Democratic candidates, and sometimes Republican. The District Court did not find that because of the 1981 Act the Democrats could not in one of the next few elections secure a sufficient vote to take control of the assembly....The appel-

> lants argue here, without a persuasive response from appellees, that had the Democratic candidates received an additional few percentage points of the votes cast statewide, they would have obtained a majority of the seats in both houses. Nor was there any finding that the 1981 reapportionment would consign the Democrats to a minority status in the Assembly throughout the 1980's or that the Democrats would have no hope of doing any better in the reapportionment that would occur after the 1990 census. Without findings of this nature, the District Court erred in concluding that the 1981 Act violated the Equal Protection Clause.

Id, at 135-26.

Two other justices (Justices Powell and Stevens), in Powell's dissenting opinion, concluded that the merits of a political gerrymandering claim turn on whether the boundaries of voting districts have been distorted deliberately and arbitrarily to achieve illegitimate ends, which must be determined by reference to a number of factors, including

the configuration of the districts, the observance of political subdivision lines, the nature of the procedures by which the apportionment law was adopted, and legislative history reflecting contemporaneous legislative goals, including any evidence of solely partisan motivation. Id. at 135 ("the record unequivocally demonstrates that in 1981 the Republican-dominated General Assembly deliberately sought to design a redistricting plan under which members of the Democratic party would be deprived of a fair opportunity to win control of the General Assembly at least until 1991, the date of the next redistricting"). Justice Powell further stated that "[t]he District Court found, and I agree, that appellants failed to justify the discriminatory impact of the plan by showing that the plan had a rational basis in

permissible neutral criteria." Id. at 184.

In the instant case, unlike Davis, supra., [sic] Petitioner does not attack the constitutionality of the entire plan, but correlates the motivational factors clearly announced by the Chairman of the LRC upon the Petitioner which resulted in the elimination of an even-numbered district, at mid-term, where the district's majority of voters, although Democratic, elected a Republican to the State Senate for four Senatorial terms.

As the plurality opinion of the Supreme Court noted, the citizens of the 44th Senatorial district will be subjected to "unconstitutional discrimination (which) occurs only when the electoral system is arranged in a manner that will consistently degrade a voter's or a

group of voters' influence on the political process as a whole."

Both the criteria established by the plurality, and certainly the opinion and rationale of Justice Powell in his dissenting opinion in Davis, supra., [sic] sustain Petitioner's claim under the Pennsylvania Constitution, Pa. Const. Art. I, §1, and equally sustainable under the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution.

The statements and intent of Chairman Cindrich, as reflected in the records of the LRC hearings, resulted in a majority vote approving the final Plan, clearly establishing an invidious intent or a nefarious ulterior motive.

* * *

LEGISLATIVE DATA PROCESSING CENTER

COMPOSITE LISTING

OF

STATE SENATE DISTRICTS

DISTRICT NUMBER	DESCRIPTION
Dist. 01	PHILADELPHIA County. Part of PHILADELPHIA County consisting of the CITY of Philadelphia (PART, Wards 01, 02, 05, 08, 14, 15 [PART, Divisions 01, 02, 03, 04, 05, 06, 08, 09, 12, 13, 14, 15, 16, 17, 18, and 19], 18 [PART, Divisions 01, 02, 04, 05, 06, 07, 09, 10, 11, and 12], 25, 26 [PART, Divisions 09, 10, 11, 12, 16, 17, 19, 21 and 22], 31, 33·[PART, Divisions 15, 17, 18, 19, 20, 21, 22, 23 and 24], 36 [PART, Divisions 01, 02, 09,

10, 11, 29, 31, 34, 35, 36, 37, 38, 39, 40 and 41] and 39).
Total population: 236,135

Dist. 02 PHILADELPHIA County.
Part of PHILADELPHIA County consisting of the CITY of Philadelphia (PART, Wards 07, 18 [PART, Divisions 03, 08, 13, 14, 15, 16 and 17], 19, 20 [PART, Divisions 01, 02, 04, and 08], 23 [PART, Divisions 01, 02, 03, 04, 05, 06, 07, 08, 09, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 and 23], 33 [PART, Divisions 01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14 and 16], 37 [PART, Divisions 13, 15, 16, 18, 19, 20, and 21], 42 [PART, Divisions 02, 03, 04, 06, 07, 16, 17, 20, 21, 24 and 25], 43 [PART, Divisions

02, 03, 04, 05, 06, 07, 08, 11, 12, 13, 16, 17, 18, 19, 20, 21 and 25], 49 [PART, Divisions 01, 09 and 13], 53 [PART, Divisions 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22], 54, 55, 56 [PART, Divisions 01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 26, 32, 33, 34, 36, 37, 39, and 40], 61 [PART, Division 01] and 62).

Total population 236,743

Dist. 03 PHILADELPHIA County.

Part of PHILADELPHIA County consisting of the CITY of Philadelphia (PART, Wards 11 [PART, Divisions 01, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20], 13

[PART, Divisions 01, 02, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24 and 25], 15 [PART, Divisions 07, 10 and 11], 16, 20 [PART, Divisions 03, 05, 06, 07, 09 and 10], 23 [PART, Divisions 10, 11 and 12], 29, 32, 35, 37 [PART, Divisions 01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 14 and 17], 42 [PART, Divisions 01, 05, 08, 09, 10, 11, 12, 13, 14, 15, 18, 19, 22 and 23], 43 [PART, Divisions 01, 09, 10, 14, 15, 22, 23 and 24], 47, 49 [PART, Divisions 02, 03, 04, 05, 06, 07, 08, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24 and 25], 53 [PART, Divisions 01, 02, 03, 04, 05 and 23] and 61 [PART,

Divisions 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27 and 28]).

Total population: 236,446

Dist. 04 MONTGOMERY and PHILADELPHIA Counties.

Part of MONTGOMERY County consisting of the TOWNSHIP of Cheltenham and Part of PHILADELPHIA County consisting of the CITY of Philadelphia (PART, Wards 09, 10, 12, 17, 21 [PART, Divisions 03, 24, 32, 34, 38, 39, 43 and 44], 22, 50, 59 and 63).

Total population: 236,080

Dist. 05 MONTGOMERY and PHILADELPHIA Counties.

Part of MONTGOMERY County consisting of the TOWNSHIP of Low-

er Moreland and Part of PHILADELPHIA County consisting of the CITY of Philadelphia (PART, Wards 41, 45, 56 [PART, Divisions 23, 24, 25, 27, 28, 29, 30, 31, 35, 38 and 41], 57, 58, 64, 65 and 66).

Total population: 238,290

Dist. 06 BUCKS County.

Part of BUCKS County consisting of the TOWNSHIPS of Bensalem, Bristol, Falls, Lower Southampton and Middletown and the BOROUGHS of Bristol, Hulmeville, Langhorne Manor, Morrisville, Penndel and Tullytown.

Total population: 238,772

Dist. 07 PHILADELPHIA County.

Part of PHILADELPHIA County consisting of the CITY of Phil-

adelphia (PART, Wards 04, 0[illegible] 11 [PART, Division 02], 13 [PART, Divisions 03, 04 and 05], 21 [PART, Divisions 01, 02, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 31, 33, 35, 36, 37, 40, 41, 42 and 45], 24, 27 [PART, Divisions 01, 02, 04, 05, 06, 07, 09, 10, 12, 13, 14, 15, 16, 17 and 23], 28, 34, 38, 44, 52 and 60 [PART, Divisions 01, 02, 03, 04, 05, 12 and 23]).

Total population: 235,402

Dist. 08 DELAWARE and PHILADELPHIA Counties.

Part of DELAWARE County consisting of the BOROUGHS of Darby and Yeadon and Part of

PHILADELPHIA County consisting of the CITY of Philadelphia (PART, Wards 03, 26 [PART, Divisions 01, 02, 03, 04, 05, 06, 07, 08, 13, 14, 15, 18, 20, 23 and 24], 27 [PART, Divisions 03, 08, 11, 18, 19, 20, 21 and 22], 30, 36 [PART, Divisions 03, 04, 05, 06, 07, 08, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 30, 32 and 33], 40, 46, 48, 51 and 60 [PART, Divisions 06, 07, 08, 09, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22]).

Total population: 236,292

Dist. 09 CHESTER and DELAWARE Counties. Part of CHESTER County consisting of the TOWNSHIPS of Birmingham, East Marlborough, Franklin, Kennett, London Brit-

ain, New Garden and Pennsbury and the BOROUGH of Kennett Square and Part of DELAWARE County consisting of the CITY of Chester and the TOWNSHIPS of Aston, Bethel, Birmingham, Chester, Concord, Lower Chichester, Middletown, Nether Providence, Ridley, Thornbury, Tinicum and Upper Chichester and the BOROUGHS of Brookhaven, Chester Heights, Eddystone, Marcus Hook, Media, Parkside, Prospect Park, Ridley Park, Rose Valley, Trainer and Upland.

Total population: 238,970

Dist. 10 BUCKS County.

Part of BUCKS County consisting of the TOWNSHIPS of Bedminster, Bridgeton, Buckingham, Doyles-

town, Durham, East Rockhill, Haycock, Hilltown, Lower Makefield, Milford, Newtown, Nockamixon, Northampton, Plumstead, Richland, Solebury, Springfield, Tinicum, Upper Makefield, Upper Southampton, West Rockhill and Wrightstown and the BOROUGHS of Doylestown, Dublin, Langhorne, New Hope, Newtown, Perkasie, Quakertown, Richlandtown, Riegelsville, Sellersville, Silverdale, Telford (Bucks County Portion), Trumbauersville and Yardley.
Total population: 236,654

Dist. 11 BERKS County.
Part of BERKS County consisting of the CITY of Reading and the TOWNSHIPS of Alsace, Bern, Centre, Colebrookdale, Cumru,

Earl, Exeter, Greenwich, Longswamp, Lower Alsace, Lower Heidelberg, Maidencreek, Maxatawny, Muhlenberg, Oley, Ontelaunee, Penn, Perry, Pike, Richmond, Rockland, Ruscombmanor and Washington and the BOROUGHS of Bally, Bechtelsville, Bernville, Birdsboro, Boyertown, Centerport, Fleetwood, Kenhorst, Kutztown, Laureldale, Leesport, Lenhartsville, Lyons, Mohnton, Mt. Penn, Shillington, Shoemakersville, St. Lawrence, Temple, Topton and West Reading.

Total population: 238,344

Dist. 12 BUCKS and MONTGOMERY Counties. Part of BUCKS County consisting of the TOWNSHIPS of New Britain, Warminster, Warrington

and Warwick and the BOROUGHS of Chalfont, Ivyland and New Britain and Part of MONTGOMERY County consisting of the TOWNSHIPS of Abington, Horsham, Lower Gwynedd, Montgomery, Upper Dublin and Upper Moreland and the BOROUGHS of Ambler, Bryn Athyn, Hatboro, Jenkintown and Rockledge.

Total population: 237,769

Dist. 13 LANCASTER and YORK Counties. Part of LANCASTER County consisting of the CITY of Lancaster and the TOWNSHIPS of Bart, Colerain, Conestoga, Drumore, East Drumore, Eden, Fulton, Lancaster, Little Britain, Manheim, Manor, Martic, Pequea, Providence, Sadsbury, Strasburg and West Lampeter and the BOR-

OUGHS of Christiana, East Petersburg, Millersville, Mountville, Quarryville and Strasburg and Part of YORK County consisting of the TOWNSHIPS of Chanceford, East Manchester, Hellam, Lower Chanceford, Lower Windsor and Springettsbury and the BOROUGHS of East Prospect, Felton, Hallam, Manchester, Mt. Wolf, Wrightsville and Yorkana. Total population: 237,361

Dist. 14 LUZERNE County.

Part of LUZERNE County consisting of the CITIES of Hazleton, Nanticoke, Pittston and Wilkes-Barre and the TOWNSHIPS of Bear Creek, Black Creek, Buck, Butler, Conyngham, Dennison, Dorrance, Exeter, Fairview, Foster, Hanover, Hazle, Jenkins,

Newport, Pittston, Plains, Rice, Slocum, Sugarloaf, Wilkes-Barre and Wright and the BOROUGHS of Ashley, Conyngham, Edwardsville, Exeter, Freeland, Hughestown, Jeddo, Laflin, Larksville, Laurel Run, Luzerne, Nuangola, Penn Lake Park, Sugar Notch, Swoyersville, Warrior Run, West Hazleton, West Pittston, West Wyoming, White Haven, Wyoming and Yatesville.

Total population: 235,506

Dist. 15 DAUPHIN County.

All of DAUPHIN County.

Total population: 237,813

Dist. 16 LEHIGH and NORTHAMPTON Counties.

Part of LEHIGH County consisting of the CITIES of Allentown

and Bethlehem (Lehigh County Portion) and the TOWNSHIPS of Hanover, Salisbury, Upper Saucon and Whitehall and the BOROUGHS of Catasauqua, Coppersburg, Coplay, Fountain Hill and Slatington and Part of NORTHAMPTON County consisting of the TOWNSHIPS of Allen, East Allen, Hanover, Lehigh and Lower Nazareth and the BOROUGHS of Bath, North Catasauqua, Northampton and Walnutport.

Total population: 238,148

Dist. 17 DELAWARE and MONTGOMERY Counties.

Part of DELAWARE County consisting of the TOWNSHIPS of Haverford and Radnor and Part of MONTGOMERY County consisting of the TOWNSHIPS of Lower Mer-

ion, Lower Providence, Plymouth, Upper Merion and West Norriton and the BOROUGHS of Bridgeport, Collegeville, Conshohocken, Narberth, Trappe and West Conshohocken.

Total population: 237,064

Dist. 18 MONROE and NORTHAMPTON Counties.

Part of MONROE County consisting of the TOWNSHIPS of Eldred, Hamilton, Polk, Ross and Smithfield and the BOROUGHS of Delaware Water Gap, East Stroudsburg and Stroudsburg and Part of NORTHAMPTON County consisting of the CITIES of Bethlehem (Northampton County Portion) and Easton and the TOWNSHIPS of Bethlehem, Bushkill, Forks, Lower Mt. Bethel, Lower Saucon,

Moore, Palmer, Plainfield, Upper Mt. Bethel, Upper Nazareth, Washington and Williams and the BOROUGHS of Bangor, Chapman, East Bangor, Freemansburg, Glendon, Hellertown, Nazareth, Pen Argyl, Portland, Roseto, Stockertown, Tatamy, West Easton, Wilson and Wind Gap.
Total population: 239,569

Dist. 19 CHESTER County.
Part of CHESTER County consisting of the CITY of Coatesville and the TOWNSHIPS of Caln, East Bradford, East Caln, East Fallowfield, East Goshen, East Nottingham, East Whiteland, Easttown, Elk, Highland, London Grove, Londonderry, Lower Oxford, New London, Newlin, Penn, Pocopson, Sadsbury, Thornbury,

Tredyffrin, Upper Oxford, Valley, West Bradford, West Fallowfield, West Goshen, West Marlborough, West Nottingham, West Sadsbury, West Whiteland, Westtown and Willistown and the BOROUGHS of Atglen, Avondale, Downingtown, Malvern, Modena, Oxford, Parkesburg, South Coatesville, West Chester and West Grove.

Total population: 239,605

Dist. 20 LUZERNE, MONROE, PIKE, SUSQUEHANNA, WAYNE and WYOMING Counties.

Part of LUZERNE County consisting of the TOWNSHIPS of Dallas, Fairmount, Franklin, Hollenback, Hunlock, Huntington, Jackson, Kingston, Lake, Lehman, Nescopeck, Plymouth, Ross,

Salem and Union and the BOR-
OUGHS of Courtdale, Dallas,
Forty Fort, Harveys Lake,
Kingston, Nescopeck, New Colum-
bus, Plymouth, Pringle and
Shickshinny; Part of MONROE
County consisting of the TOWN-
SHIPS of Middle Smithfield,
Paradise, Price and Stroud; All
of PIKE County; All of SUSQUE-
HANNA County; All of WAYNE
County and All of WYOMING Coun-
ty.

Total population: 239,125

Dist. 21 BUTLER, CLARION, LAWRENCE and
VENANGO Counties.

Part of BUTLER County consist-
ing of the CITY of Butler and
the TOWNSHIPS of Allegheny,
Brady, Buffalo, Butler, Center,
Cherry, Clay, Clearfield, Clin-

ton, Concord, Connoquenessing, Donegal, Fairview, Forward, Franklin, Jackson, Jefferson, Lancaster, Marion, Mercer, Middlesex, Muddycreek, Oakland, Parker, Penn, Slippery Rock, Summitt, Venango, Washington, Winfield and Worth and the BOROUGHS of Bruin, Cherry Valley, Chicora, Connoquenessing, East Butler, Eau Claire, Evans City, Fairview, Harmony, Harrisville, Karns City, Petrolia, Portersville, Prospect, Saxonburg, Slippery Rock, West Liberty, West Sunbury and Zelienople; All of CLARION County; Part of LAWRENCE County consisting of the TOWNSHIPS of Hickory, Neshannock, Perry, Plain Grove, Scott, Shenango, Slippery Rock,

Washington and Wilmington and the BOROUGHS of New Wilmington and Volant and Part of VENANGO County consisting of the CITY of Franklin and the TOWNSHIPS of Canal, Clinton, Cranberry, Frenchcreek, Irwin, Jackson, Mineral, Pinegrove, Richland, Rockland, Sandycreek, Scrubgrass and Victory and the BOROUGHS of Barkeyville, Clintonville, Cooperstown, Emlenton, Polk and Utica.

Total population: 235,335

Dist. 22 LACKAWANNA, LUZERNE and MONROE Counties.

All of LACKAWANNA County; Part of LUZERNE County consisting of the BOROUGHS of Avoca, Dupont and Duryea and Part of MONROE

County consisting of the TOWNSHIPS of Barrett and Coolbaugh.

Total population: 239,761

Dist. 23 BRADFORD, LYCOMING, SULLIVAN, TIOGA and UNION Counties.

All of BRADFORD County; All of LYCOMING County; All of SULLIVAN County; All of TIOGA County and Part of UNION County consisting of the TOWNSHIPS of Buffalo, Gregg, Kelly and White Deer.

Total population: 239,417

Dist. 24 MONTGOMERY County.

Part of MONTGOMERY County consisting of the TOWNSHIPS of East Norriton, Franconia, Hatfield, Limerick, Lower Frederick, Lower Salford, Marlborough, Perkiomen, Salford, Skippack, Springfield, Towamencin,

Upper Frederick, Upper Gwynedd, Upper Providence, Upper Salford, Whitemarsh, Whitpain and Worcester and the BOROUGHS of Green Lane, Hatfield, Lansdale, Norristown, North Wales, Royersford, Schwenksville, Souderton and Telford (Montgomery County Portion).

Total population: 238,124

Dist. 25 CAMERON, CLEARFIELD, ELK, ERIE, FOREST, JEFFERSON, MCKEAN, POTTER, VENANGO and WARREN Counties.

All of CAMERON County; Part of CLEARFIELD County consisting of the CITY of Dubois and the TOWNSHIPS of Bell, Bloom, Brady, Huston, Penn, Sandy and Union and the BOROUGHS of Grampian, Mahaffey and Troutville;

All of ELK County; Part of ERIE County consisting of the CITY of Corry; All of FOREST County; Part of JEFFERSON County consisting of the TOWNSHIPS of Barnett, Beaver, Clover, Eldred, Heath, Knox, Oliver, Pine Creek, Polk, Rose, Snyder, Union, Warsaw and Washington and the BOROUGHS of Brockway, Brookville, Corsica, Falls Creek (Jefferson County Portion) and Summerville; All of MCKEAN County; All of POTTER County; Part of VENANGO County consisting of the CITY of Oil City and the TOWNSHIPS of Allegheny, Cherrytree, Cornplanter, Oakland, Oil Creek, Plum and President and the BOROUGHS of Pleasantville, Rouseville

and Sugar Creek and All of WARREN County.

Total population: 237,406

Dist. 26 DELAWARE County.

Part of DELAWARE County consisting of the TOWNSHIPS of Darby, Edgemont, Marple, Newtown, Springfield, Upper Darby and Upper Providence and the BOROUGHS of Aldan, Clifton Heights, Collingdale, Colwyn, East Lansdowne, Folcroft, Glenolden, Lansdowne, Millbourne, Morton, Norwood, Rutledge, Sharon Hill and Swarthmore.

Total population: 238,475

Dist. 27 COLUMBIA, MONTOUR, NORTHUMBERLAND, SNYDER and UNION Counties.

All of COLUMBIA County; All of MONTOUR County; All of NOR-

THUMBERLAND County; All of SNY-
DER County and Part of UNION
County consisting of the TOWN-
SHIPS of East Buffalo, Hartley,
Lewis, Limestone, Union and
West Buffalo and the BOROUGHS
of Hartleton, Lewisburg, Mif-
flinburg and New Berlin.
Total population: 238,054

Dist. 28 YORK County.
Part of YORK County consisting
of the CITY of York and the
TOWNSHIPS of Codorus, Dover,
East Hopewell, Fawn, Heidel-
berg, Hopewell, Jackson, Man-
chester, Manheim, North Codo-
rus, North Hopewell, Paradise,
Peach Bottom, Penn, Shrewsbury,
Spring Garden, Springfield,
West Manchester, West Manheim,
Windsor and York and the BOR-

OUGHS of Cross Roads, Dallastown, Delta, Dover, Fawn Grove, Glen Rock, Hanover, Jacobus, Jefferson, Longanville, New Freedom, New Salem, North York, Railroad, Red Lion, Seven Valleys, Shrewsbury, Spring Grove, Stewartstown, West York, Windsor, Winterstown and Yoe.

Total population: 236,291

Dist. 29 CARBON, MONROE and SCHUYLKILL Counties.

All of CARBON County; Part of MONROE County consisting of the TOWNSHIPS of Chestnuthill, Jackson, Pocono, Tobyhanna and Tunkhannock and the BOROUGH of Mt. Pocono and All of SCHUYLKILL County.

Total population: 237,688

Dist. 30 BEDFORD, BLAIR, FULTON and HUNTINGDON Counties.

All of BEDFORD County; All of BLAIR County; All of FULTON County and All of HUNTINGDON County.

Total population: 236,462

Dist. 31 CUMBERLAND, PERRY and YORK Counties.

Part of CUMBERLAND County consisting of the TOWNSHIPS of Cooke, Dickinson, East Pennsboro, Hampden, Hopewell, Lower Allen, Lower Frankford, Lower Mifflin, Middlesex, North Middleton, North Newton, Penn, Shippensburg, Silver Spring, South Middleton, South Newton, Southampton, Upper Frankford, Upper Mifflin and West Pennsboro and the BOROUGHS of Camp

Hill, Carlisle, Lemoyne, Mechanicsburg, Mt. Holly Springs, New Cumberland, Newburg, Newville, Shippensburg (Cumberland County Portion), Shiremanstown, West Fairview and Wormleysburg; Part of PERRY County consisting of the TOWNSHIPS of Carroll, Centre, Jackson, Juniata, Miller, North East Madison, Penn, Rye, Saville, South West Madison, Spring, Toboyne, Tyrone and Wheatfield and the BOROUGHS of Blain, Bloomfield, Duncannon, Landisburg and Marysville and Part of YORK County consisting of the TOWNSHIPS of Conewago, Fairview and Newberry and the BOROUGHS of Goldsboro, Lewisberry and York Haven.
Total population: 238,487

Dist. 32 FAYETTE, SOMERSET, WASHINGTON and WESTMORELAND Counties. All of FAYETTE County; Part of SOMERSET County consisting of the TOWNSHIPS of Addison, Allegheny, Black, Brothers Valley, Conemaugh, Elk Lick, Fairhope, Greenville, Jefferson, Jenner, Larimer, Lincoln, Lower Turkeyfoot, Middlecreek, Milford, Northampton, Quemahoning, Somerset, Southampton, Stonycreek, Summit and Upper Turkeyfoot and the BOROUGHS of Addison, Berlin, Boswell, Callimont, Casselman, Confluence, Garrett, Indian Lake, Jennerstown, Meyersdale, New Baltimore, New Centerville, Rockwood, Salisbury, Seven Springs, Shanksville, Somerset,

Stoystown, Ursina and Wellersburg; Part of WASHINGTON County consisting of the BOROUGHS of Allenport, California, Charleroi, Coal Center, Dunlevy, Elco, Long Beach, Roscoe, Speers and Stockdale and Part of WESTMORELAND County consisting of the TOWNSHIP of Ligonier and the BOROUGHS of Laurel Mountain, Ligonier and Scottdale.

Total population: 237,798

Dist. 33 ADAMS, CUMBERLAND, FRANKLIN and YORK Counties.

All of ADAMS County; Part of CUMBERLAND County consisting of the TOWNSHIPS of Monroe and Upper Allen; All of FRANKLIN County and Part of YORK County consisting of the TOWNSHIPS of

Carroll, Franklin, Monaghan, Warrington and Washington and the BOROUGHS of Dillsburg, Franklintown and Wellsville.
Total population: 236,487

Dist. 34 CENTRE, CLINTON, JUNIATA, MIFFLIN and PERRY Counties.
All of CENTRE County; All of CLINTON County; All of JUNIATA County; All of MIFFLIN County and Part of PERRY County consisting of the TOWNSHIPS of Buffalo, Greenwood, Howe, Liverpool, Oliver, Tuscarora and Watts and the BOROUGHS of Liverpool, Millerstown, New Buffalo and Newport.
Total population: 238,705

Dist. 35 CAMBRIA, CLEARFIELD, SOMERSET and WESTMORELAND Counties.

All of CAMBRIA County; Part of CLEARFIELD County consisting of the TOWNSHIPS of Beccaria, Bigler, Boggs, Bradford, Burnside, Chest, Cooper, Covington, Decatur, Ferguson, Girard, Goshen, Graham, Greenwood, Gulich, Jordan, Karthaus, Knox, Lawrence, Morris, Pike, Pine and Woodward and the BOROUGHS of Brisbin, Burnside, Chester Hill, Clearfield, Coalport, Curwensville, Glen Hope, Houtzdale, Irvona, Lumber City, New Washington, Newburg, Osceola, Ramey, Wallaceton and Westover; Part of SOMERSET County consisting of the TOWNSHIPS of Ogle, Paint and Shade and the BOROUGHS of Benson, Central City, Hooversville, Paint and

Windber and Part of WESTMORELAND County consisting of the TOWNSHIPS of Fairfield and St. Clair and the BOROUGHS of Bolivar, New Florence and Seward. Total population: 237,025

Dist. 36 LANCASTER County.

Part of LANCASTER County consisting of the TOWNSHIPS of Brecknock, Caernarvon, Clay, Conoy, Earl, East Cocalico, East Donegal, East Earl, East Hempfield, East Lampeter, Elizabeth, Ephrata, Leacock, Mt. Joy, Paradise, Penn, Rapho, Salisbury, Upper Leacock, Warwick, West Cocalico, West Donegal, West Earl and West Hempfield and the BOROUGHS of Adamstown (Lancaster County Portion), Akron, Columbia, Den-

ver, Elizabethtown, Ephrata, Lititz, Manheim, Marietta, Mt. Joy, New Holland and Terre Hill.

Total population: 238,640

Dist. 37 ALLEGHENY and WASHINGTON Counties.

Part of ALLEGHENY County consisting of the TOWNSHIPS of Baldwin, Collier, Mt. Lebanon, Scott, South Fayette, South Park and Upper St. Clair and the BOROUGHS of Bethel Park, Brentwood, Bridgeville, Carnegie, Castle Shannon, Dormont, Green Tree, Heidelberg, Jefferson, Oakdale, Pleasant Hills, Rossyln Farms, Thornburg and Whitehall and Part of WASHINGTON County consisting of the TOWNSHIP of Peters.

Total population: 236,558

Dist. 38 ALLEGHENY County.

Part of ALLEGHENY County consisting of the CITY of Pittsburg (PART, Wards 02, 03, 04, 05, 06, 08, 09, 10, 11, 12, 13, 22, 23, 24, 25 and 26) and the TOWNSHIPS of O Hara and Reserve and the BOROUGHS of Aspinwall, Blawnox, Edgewood, Etna, Fox Chapel, Millvale, Oakmont, Sharpsburg, Swissvale, Verona and Wilkinsburg.

Total population: 237,362

Dist. 39 WESTMORELAND County.

Part of WESTMORELAND County consisting of the CITIES of Greensburg and Jeannette and the TOWNSHIPS of Cook, Derry, Donegal, East Huntingdon, Hempfield, Loyalhanna, Mt. Pleas-

ant, North Huntingdon, Penn, Rostraver, South Huntingdon and Unity and the BOROUGHS of Adamsburg, Arona, Derry, Donegal, Hunker, Irwin, Latrobe, Manor, Mt. Pleasant, New Alexandria, New Stanton, North Belle Vernon, North Irwin, Penn, Smithton, South Greensburg, Southwest Greensburg, West Newton, Youngstown and Youngwood.

Total population: 236,743

Dist. 40 ALLEGHENY, BUTLER and WESTMORELAND Counties.

Part of ALLEGHENY County consisting of the TOWNSHIPS of East Deer, Fawn, Frazer, Hampton, Harmar, Harrison, Indiana, Marshall, Mc Candless, Pine, Richland, Ross, Shaler, Spring-

dale and West Deer and the BOROUGHS of Brackenridge, Bradford Woods, Cheswick, Franklin Park, Tarentum and West View; Part of BUTLER County consisting of the Townships of Adams and Cranberry and the BOROUGHS of Callery, Mars, Seven Fields and Valencia and Part of WESTMORELAND County consisting of the CITIES of Arnold and New Kensington.

Total population: 239,147

Dist. 41 ARMSTRONG, INDIANA, JEFFERSON and WESTMORELAND Counties.

All of ARMSTRONG County; All of INDIANA County; Part of JEFFERSON County consisting of the TOWNSHIPS of Bell, Gaskill, Henderson, Mc Calmont, Perry, Porter, Ringgold, Winslow and

Young and the BOROUGHS of Big Run, Punxsutawney, Reynoldsville, Sykesville, Timblin and Worthville and Part of WESTMORELAND County consisting of the CITY of Lower Burrell and the TOWNSHIPS of Allegheny, Bell, Salem, Upper Burrell and Washington and the BOROUGHS of Avonmore, East Vandergrift, Hyde Park, Oklahoma, Vandergrift and West Leechburg.
Total population: 237,423

Dist. 42 ALLEGHENY County.
Part of ALLEGHENY County consisting of the CITY of Pittsburgh (PART, Wards 01, 18, 19, 20, 21, 27, 28, 30 and 32) and the TOWNSHIPS of Aleppo, Crescent, Findlay, Kennedy, Kilbuck, Leet, Moon, Neville,

North Fayette, Ohio, Robinson and Stowe and the BOROUGHS of Avalon, Bell Acres, Bellevue, Ben Avon, Ben Avon Heights, Coraopolis, Crafton, Edgeworth, Emsworth, Glenfield, Haysville, Ingram, Leetsdale, Mc Donald (Allegheny County Portion), Mc Kees Rocks, Osborne, Pennsbury Village, Sewickley, Sewickley Heights and Sewickley Hills.
Total population: 238,509

Dist. 43 ALLEGHENY County.
Part of ALLEGHENY County consisting of the CITY of Pittsburgh (PART, Wards 07, 14, 15, 16, 17, 29 and 31) and the TOWNSHIPS of Penn Hills and Wilkins and the BOROUGHS of Baldwin, Braddock, Braddock Hills, Chalfant, Churchill,

Forest Hills, Homestead, Mt. Oliver, Munhall, North Braddock, Rankin, West Homestead and Whitaker.

Total population: 237,107

Dist. 44 BERKS, CHESTER, LEHIGH and MONTGOMERY Counties.

Part of BERKS County consisting of the TOWNSHIPS of Amity, Brecknock, Caernarvon, District, Douglass, Hereford, Robeson and Union; Part of CHESTER County consisting of the TOWNSHIPS of Charleston, East Brandywine, East Coventry, East Nantmeal, East Vincent, Honeybrook, North Coventry, Schuylkill, South Coventry, Upper Uwchlan, Uwchlan, Wallace, Warwick, West Brandywine, West Caln, West Nantmeal, West

Pikeland and West Vincent and the BOROUGHS of East Pikeland, Elverson, Honey Brook, Phoenixville and Spring City; Part of LEHIGH County consisting of the TOWNSHIPS of Lower Macungie, Lower Milford and Upper Milford and the BOROUGHS of Alburtis, Emmaus and Macungie and Part of MONTGOMERY County consisting of the TOWNSHIPS of Douglass, Lower Pottsgrove, New Hanover, Upper Hanover, Upper Pottsgrove and West Pottsgrove and the BOROUGHS of East Greenville, Pennsburg, Pottstown and Red Hill.

Total population: 239,075

Dist. 45 ALLEGHENY and WESTMORELAND Counties.

Part of ALLEGHENY County consisting of the CITIES of Clairton, Duquesne and Mc Keesport and the TOWNSHIPS of Elizabeth, Forward, North Versailles and South Versailles and the BOROUGHS of Dravosburg, East McKeesport, East Pittsburgh, Elizabeth, Glassport, Liberty, Lincoln, Monroeville, Pitcairn, Plum, Port Vue, Springdale, Trafford (Allegheny County Portion), Turtle Creek, Versailles, Wall, West Elizabeth, West Mifflin, White Oak and Wilmerding and Part of WESTMORELAND County consisting of the TOWNSHIP of Sewickley and the BOROUGHS of Delmont, Export, Madison, Murrysville,

Sutersville and Trafford (Westmoreland County Portion).

Total population: 237,473

Dist. 46 BEAVER, GREENE, WASHINGTON and WESTMORELAND Counties.

Part of BEAVER County consisting of the TOWNSHIPS of Greene, Hanover, Independence, Potter and Raccoon and the BOROUGHS of Frankfort Springs, Georgetown, Hookstown and Shippingport; All of GREENE County; Part of WASHINGTON County consisting of the CITIES of Monongahela and Washington and the TOWNSHIPS of Amwell, Blaine, Buffalo, Canton, Carroll, Cecil, Chartiers, Cross Creek, Donegal, East Bethlehem, East Finley, Fallowfield, Hanover, Hopewell, Independence, Jefferson, Morris,

Mt. Pleasant, North Bethlehem, North Franklin, North Strabane, Nottingham, Robinson, Smith, Somerset, South Franklin, South Strabane, Union, West Bethlehem, West Finley and West Pike Run and the BOROUGHS of Beallsville, Bentleyville, Burgettstown, Canonsburg, Centerville, Claysville, Cokeburg, Deemston, Donora, East Washington, Ellsworth, Finleyville, Green Hills, Houston, Marianna, Mc Donald (Washington County Portion), Midway, New Eagle, North Charleroi, Twilight, West Alexander, West Brownsville and West Middleton and Part of WESTMORELAND County consisting of the City of Monessen.
Total population: 237,271

Dist. 47 BEAVER and LAWRENCE Counties. Part of BEAVER County consisting of the CITIES of Aliquippa and Beaver Falls and the TOWNSHIPS of Brighton, Center, Chippewa, Darlington, Daugherty, Franklin, Harmony, Hopewell, Marion, New Sewickley, North Sewickley, Patterson, Pulaski, Rochester, South Beaver, Vanport and White and the BOROUGHS of Ambridge, Baden, Beaver, Big Beaver, Bridgewater, Conway, Darlington, East Rochester, Eastvale, Economy, Fallston, Freedom, Glasgow, Homewood, Industry, Koppel, Midland, Monaca, New Brighton, New Galilee, Ohioville, Patterson Heights, Rochester, South Heights and West Mayfield and

Part of LAWRENCE County consisting of the CITY of New Castle and the TOWNSHIPS of Little Beaver, Mahoning, North Beaver, Pulaski, Taylor, Union and Wayne and the BOROUGHS of Bessemer, Ellport, Ellwood City (Lawrence County Portion), Enon Valley, New Beaver, Snpj, South New Castle and Wampum.

Total population: 237,136

Dist. 48 BERKS, LEBANON and LEHIGH Counties.

Part of BERKS County consisting of the TOWNSHIPS of Albany, Bethel, Heidelberg, Jefferson, Marion, North Heidelberg, South Heidelberg, Spring, Tilden, Tulpehocken, Upper Bern, Upper Tulpehocken and Windsor and the BOROUGHS of Adamstown (Berks

County Portion), Hamburg, Robesonia, Sinking Spring, Strausstown, Wernersville, West Lawn, Womelsdorf, Wyomissing and Wyomissing Hills; All of LEBANON County and Part of LEHIGH County consisting of the TOWNSHIPS of Heidelberg, Lowhill, Lynn, North Whitehall, South Whitehall, Upper Macungie, Washington and Weisenberg.
Total population: 238,068

Dist. 49 ERIE County.
Part of ERIE County consisting of the CITY of Erie and the TOWNSHIPS of Conneaut, Elk Creek, Fairview, Franklin, Girard, Greene, Harborcreek, Lawrence Park, Mc Kean, Millcreek, Springfield, Summit and Washington and the BOROUGHS of Al-

bion, Cranesville, Edinboro, Fairview, Girard, Lake City, Mc Kean, Platea and Wesleyville.

Total population: 236,523

Dist. 50 CRAWFORD, ERIE and MERCER Counties.

All of CRAWFORD County; Part of ERIE County consisting of the TOWNSHIPS of Amity, Concord, Greenfield, Le Boeuf, North East, Union, Venango, Waterford and Wayne and the BOROUGHS of of Elgin, Mill Village, North East, Union City, Waterford and Wattsburg and All of MERCER County.

Total population: 239,005

Population of all districts: 11,881,643

11/15/91
PAGE 1

LEGISLATIVE DATA PROCESSING CENTER

PLACES SPLIT BY SENATE DISTRICTS

2 TOTAL PLACES 8 TOTAL SPLITS

ALLEGHENY COUNTY					
PITTSBURGH	CITY	38	42	43	
PHILADELPHIA COUNTY					
PHILADELPHIA	CITY	01	02	03	04
		05	07	08	

11/15/91
PAGE 1

LEGISLATIVE DATA PROCESSING CENTER

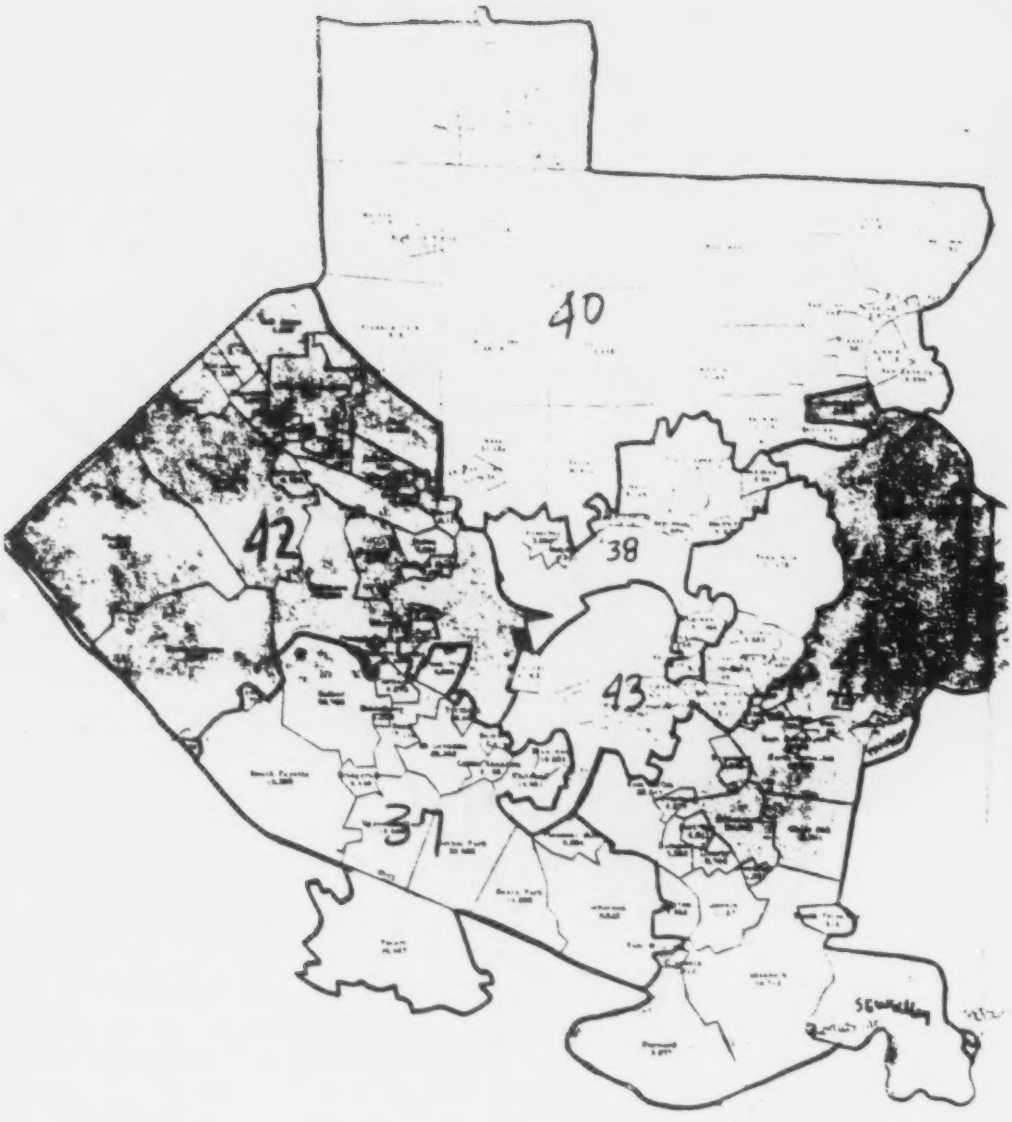
WARDS SPLIT BY SENATE DISTRICTS

19 TOTAL WARDS 19 TOTAL SPLITS

PHILADELPHIA COUNTY
PHILADELPHIA CITY

WARD 11	03	07
WARD 13	03	07
WARD 15	01	03
WARD 18	01	02
WARD 20	02	03
WARD 21	04	07
WARD 23	02	03
WARD 26	01	08
WARD 27	07	08
WARD 33	01	02
WARD 36	01	08
WARD 37	02	03
WARD 42	02	03
WARD 43	02	03
WARD 49	02	03
WARD 53	02	03
WARD 56	02	05
WARD 60	07	08
WARD 61	02	03

POLITICAL SUBDIVISION MAP
OF
PENNSYLVANIA
NEW YORK
NEW YORK
WEST VIRGINIA
MARYLAND
MARYLAND
NEW JERSEY
DELAWARE
PITTSBURGH
PHILADELPHIA



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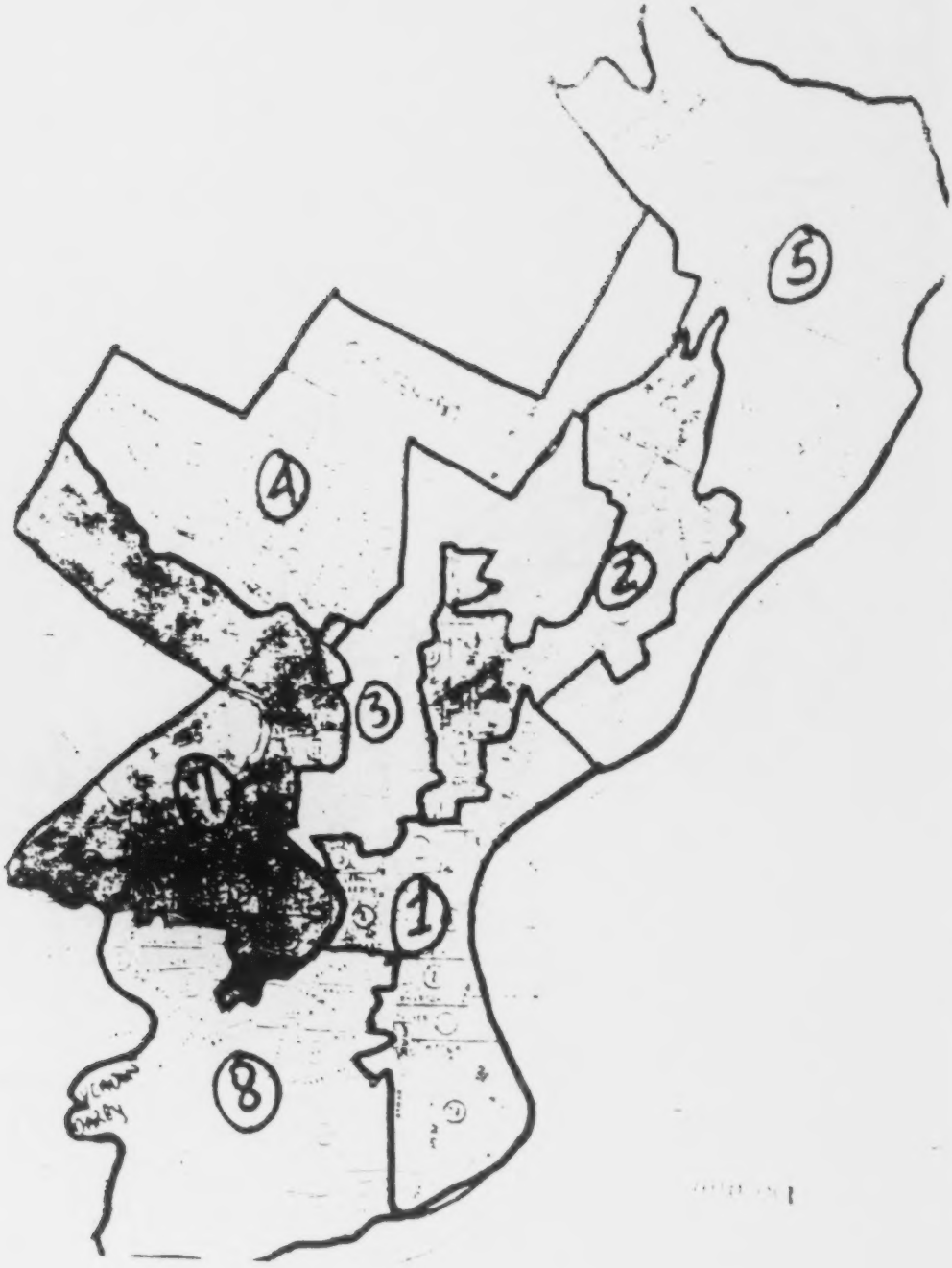

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COMMONWEALTH OF PENNSYLVANIA
LEGISLATIVE REAPPORTIONMENT COMMISSION

In re: Public Hearing of the Legislative Reapportionment Commission

* * * * *

Stenographic report of hearing held in Room 8A East Wing, Main Capitol Building, Harrisburg, Pennsylvania

Wednesday,
September 25, 1991
10:00 a.m.

ROBERT J. CINDRICH, ESQUIRE, CHAIRMAN

MEMBERS OF LEGISLATIVE
REAPPORTIONMENT COMMISSION

Sen. Joseph Loeper
Sen. Robert Mellow
Hon. John Parzel
Hon. Allen Kukovich (Deputy Commissioner for Hon. H. William DeWeese)

Also Present:

Ken Gormley, Esquire, Executive Director
Stephen J. Harmelin, Esquire, Chief Counsel
David Woods, Chief of Staff to Senate Majority Leader
Donna Memmi Malpezzi, Counsel to Majority Leader
Stephen MacNett, Gen. Counsel, Senate Republican Caucus
C.J. Hafner, Counsel to Senate Minority Leader
Mark McKillop, Senate Democratic Research

Scott Casper, Executive Director for the House Reapportionment Office
Joseph Murphy, Chief Counsel to House Republican Caucus
Stephen Dull, Director, House Rep. Member Services
Michael Rosenstein, Executive Director, Republican Appropriations Committee

Reported by:
Ann-Marie P. Sweeney, Reporter

ANN-MARIE P. SWEENEY
536 Orrs Bridge Road
Camp Hill, PA 17011
717-737-1367

CHAIRMAN CINDRICH: At this time, we'll call to order the public meeting of the Commonwealth of Pennsylvania Reapportionment Commission.

Present here today are the members of the Commission, the Honorable F. Joseph Loeper, Senate Majority Leader; the Honorable Robert J. Mellow, Senate Minority Leader, the Honorable Allen Kukovich on behalf of the Honorable H. William DeWeese, House Majority Leader; the Honorable John M. Perzel, House Minority Policy Chairman; and myself, Robert Cindrich, serving as Chairman.

Our first thing on the agenda is the approval of the minutes of the meeting, public meeting, of September 5, 1991. Those have been distributed in advance. Is there a motion for the approval of the minutes of the September 5, 1991 meeting?

REPRESENTATIVE KUKOVICH: I move we approve the minutes.

CHAIRMAN CINDRICH: Second?

(No response.)

CHAIRMAN CINDRICH: We need a second on the approval of the minutes of the last meeting.

REPRESENTATIVE PERZEL: Oh, second.

CHAIRMAN CINDRICH: All in favor?

SENATOR MELLOW: Aye.

* * *

I'm afraid that fairness, like beauty, is in the eyes of the beholder, and that there will be many interpretations of who won and who lost in each particular district, and perhaps overall. I think, however, that the plan is a fair composite for the entire Commonwealth of Pennsylvania, and I would support its adoption, and I would therefore second the motion.

SENATOR LOEPER: Mr. Chairman?

CHAIRMAN CINDRICH: Senator Loeper.

SENATOR LOEPER: Thank you, Mr. Chairman. Is it in order to discuss the motion?

CHAIRMAN CINDRICH: All right. We'll call for the question and then that will open it up for discussion, Senator, and now would be the appropriate time to discuss it.

SENATOR LOEPER: Okay, thank you, Mr. Chairman.

Mr. Chairman, I would just like to take a moment to put some remarks on the record as far as concerns I have about this process, about the plan that's before us today, and then, Mr. Chairman, I would like to take the opportunity to offer an amendment to the plan that's before us today.

Mr. Chairman, I realize the work of this Commission has been a long and arduous process. It's one that started back last spring. As everyone is well aware, I had the opportunity to serve as the temporary Chairman of this Commission until we were able to have a Chairman. Unfortunately, we were not able to select a Chairman by a majority vote of this Commission, even though we interviewed some extremely well-qualified individuals to serve in that capacity. A majority consensus among the four Commissioners at that time could not have been reached. Mr. Chairman is well aware after that the issue was decided by the Supreme Court of Pennsylvania that declared yourself as the Chairman of this Commission to arbitrate this process through its conclusion.

I think that your direction to us at that time was to try and bring maps as we believed represented the population shifts in Pennsylvania and had asked each side to present to you a map that reflected that. I think as we look at Pennsylvania's population of 1990, we have seen major population shifts throughout this Commonwealth. We have seen a significant loss of population in our major urban areas, such as Philadelphia and Pittsburgh, and I think that we've seen a migration of that population particularly to the southeast suburban counties, to the northeast areas. And I think that when we drew those maps, Mr. Chairman, we tried to draw it based on those shifts in population.

I think that one of the most disturbing decisions that has been made, in my view, by the Chairman was the decision

in the Pittsburgh area to merge a Republican and Democratic seat. The Chairman had indicated that regardless of what the population losses were, that it was his view that a Republican and Democratic seat had to be merged in order to move an additional seat to the east to reflect that population growth.

Mr. Chairman, it's my view that that was an arbitrary decision, it was a very partisan decision, and based on partisan concerns.

Mr. Chairman, it was you and solely you, as I understand it, and you directed us to make the decision that you were going to eliminate the 44th Senatorial District and merge that with the 43rd Senatorial District in the city of Pittsburgh, and that I think that you directed us then about a week ago to move that

44th District seat to the east to become the new seat.

I disagree strongly, Mr. Chairman, with that premise. I don't believe that our mission is to make sure that there is a partisan balance as far as the House and Senate is concerned. I believe that our mission is not to have to merge a Republican and Democratic district, and I think that what we have to base our decisions on are the demographics of the area.

And let me just take a moment and give you what I believe to be the example of the western area, particularly Allegheny County.

Allegheny County, Mr. Chairman, has seven Senate districts. There are four Democratic members of the Senate represented by those districts, and there are three Republican members. However, Mr.

Chairman, I think if we look at the numbers, the demographics, we see that the four Democratic districts within the city of Pittsburgh lost a total of 102,000 people in the last 10 years. If we were to look at those districts specifically, we would see that the 38th District lost 30,505 people; the 45th District, 26,796 people; the 43rd District, 26,687 people; and the 42nd District 17,943 people.

However, Mr. Chairman, when we look at the surrounding three districts outside the city, the ones that are represented by Republicans, we see that the total loss in those three districts was just 26,000 people - almost one-fourth the number of loss as within the city. And therefore, I think in order to merge a Republican and Democratic district is an arbitrary decision and not one that agrees with the demographics of the area.

I think also, Mr. Chairman, it's important to note that the registration in the districts that are held by the Republicans are heavily Democratic. In the 44th District, the district that you're eliminating, that is a 60-percent registered Democratic district. In the 40th District, it's a 56-percent registered Democratic district, and in the 37th District it's a 51-percent registered Democratic district.

Mr. Chairman, it's the voters in those districts that have elected their representatives, regardless what the voter registration trends may be in that district. And I think it's particularly important, Mr. Chairman, to note that the 44th District, which you made the call to eliminate and to move to the east, represented by Senator Pecora, a gentleman who has been elected and re-elected in that

district by the voters of that district for four consecutive terms, now in his 13th year serving in the Senate, has been elected by a district that's registered 60-percent Democrat.

And, Mr. Chairman, in addition to that, I disagree with the merger of an even numbered district that cuts an incumbent's term, which is exactly the decision you have made relevant to Senator Pecora. I believe that if in fact we do proceed and eliminate that even numbered district and move it to the east, we have forced the creation of a special election situation for next year for that 44th District, which would make a two-year term.

I also believe, Mr. Chairman, that it appears that the elimination of this seat in mid-term is unconstitutional, and I am certain that if it's the decision of

this Commission and its Chairman to eliminate that seat from the city of Pittsburgh, to move that seat to the east and create a special election, that certainly that will be an issue that will be decided in future litigation.

And I think, Mr. Chairman, at this time I would also like to enter for the record a map which indicates essentially population gains and losses by Senate district throughout the State which graphically demonstrates the major loss of population in the city of Pittsburgh and the relatively minor loss of population in the districts surrounding the city of Pittsburgh, and I'd like to have that entered in as part of the record today.

CHAIRMAN CINDRICH: For purposes of clarity, Senator, would it be all right if we marked on here Loeper Exhibit 1?

SENATOR LOEPER: That's fine.

CHAIRMAN CINDRICH: Thank you.

(Whereupon, Loeper Exhibit No. 1 was produced and marked for identification.)

SENATOR LOEPER: Mr. Chairman, we have before us a redistricting plan, and I think that the tests that a redistricting plan must meet have been fairly well enumerated over time, and nowhere, Mr. Chairman, is it written that the goal of the plan is to preserve the existing political balance. That issue, Mr. Chairman, is certainly the aim of the parties involved, but it's not the central mission of this Commission. We cannot alter the population change or deny the community and political interests of minority population groups. We are not required to compensate a party that believes it may be at risk because of population shifts.

This redistricting plan, Mr. Chairman, must be constitutionally defensible and not politically defensible. To shape a plan that eliminates an even . . . .

* * *

I believe, Mr. Chairman, that this particular configuration will enhance the opportunity for the black community in Pittsburgh and Allegheny County to have a significant impact on the election of a candidate of their choice, and for those reasons that I've enumerated already, Mr. Chairman, I would ask for an affirmative vote on the amendment.

CHAIRMAN CINDRICH: This is a motion to amend the motion that's pending, am I correct?

SENATOR LOEPER: Excuse me, Mr. Chairman?

CHAIRMAN CINDRICH: Representative Kukovich has a motion pending, and I take

it that this is a motion to amend the motion pending?

SENATOR LOEPER: That's correct.

CHAIRMAN CINDRICH: It there a second to the motion?

REPRESENTATIVE PERZEL: I second it.

CHAIRMAN CINDRICH: All right, seconded by Representative Perzel.

Before we call for the question, I would like to make a brief response to some of the remarks made by Senator Loeper, since most of them were directed to the Chair, and I think also appropriately so.

First, I think it's nothing short of preposterous to suggest that politics play no part in a reapportionment, and that it's very difficult to say something like that and keep a straight face. In fact, if politics played no part in reapportionment, the Constitution of Penn-

sylvania would not have had the Commission comprised of majority and minority leaders from both parties. That, obviously, is a design, and that design is intended to allow politics to play a part. Nothing wrong with that at all, because it is through politics that the voter exercises the right to vote.

To suggest, however, that it is possible, given the constitutional mandate as to the creation of the Commission, to construct any form of reapportionment plan for the State without taking into account political issues such as the balance of political power, protection of incumbencies, is, as I have already said, preposterous, and I don't think I need to comment any further on it.

Now, you know, in some States they don't have commissions like this that are set up this way. The Libertarian Party,

for example, has made a proposal that the Commission should never include politicians and you should disregard incumbencies, so that what you would do is every 10 years you would simply start all over again, forget about where the existing districts are, start with new ones and forget all that. However that's not been done in Pennsylvania, and we have a constitutionally set-up scheme here which does include the political parties and calls for their active input.

That's the first comment I have to make. So that there is a distinct difference in where a district boundary is drawn. I can draw you a boundary that will make that area a Democratic area, I can draw you the same district and I can make it Republican. And as the Senator has suggested, we can do that on the basis of registration, we can do it on the

basis of population, voting trends, whatever. So that what we have tried to do, what I have tried to do as a neutral, is listen to the arguments of both parties as to how their political opportunities will be enhanced or damaged by one configuration or another. As a matter of fact, I would say that about 99 percent of the discussion we have over the past 90 days has been along those lines.

Now, we first, of course, start with the Constitution of Pennsylvania, which sets forth the basic requirements. We need relative equality in districts. We need to split municipal boundaries only when absolutely necessary. We then, in addition to the Pennsylvania Constitution, must adhere to the Federal Constitution and to the Federal Voting Rights Act. Having done all that, the only

question left is where does this district go?

Now, with regard to Allegheny County, there is no question that the demographics, and that is the shift in population has mandated that a Senate seat be lost. There simply are not enough people in that side of the State to support as many Senators as were supported before, when you consider that we need about 238,500 per Senate seat. So one of them had to be squeezed out.

The political parties take positions. Naturally, if you are a Democrat, a good position is to say that you should combine two Republican districts so that there will only be one Republican left. And if you're a Republican, as the Republicans did propose, you should combine two Democrat districts so that there will be one less Democrat around. And if

you're a neutral Chairman you say, why don't you combine one of each so that neither of you gains an advantage by virtue of the fact that the Constitution requires us to match up the population with the districts, and that's what the Chairman did.

There is a lot of difficulty when you eliminate a district. You see, there are people in there who voted for one Senator, and there are people in the other district which is being combined who voted for another Senator. In this case, as the Chairman mandated, and the Senator was correct in that, that was my mandate, people on one side voted for a Republican candidate, people on the other side voted for a member of the Democrat Party. And when you combine those, it's impossible to create a district which has more than 50 percent of the old district.

Now, Senator Loeper talks in terms of interfering with the right of these people who elected Senator Pecora to have him as their Senator. Is that true in the new district? At least 50 percent of those people didn't elect him, did they? They elected the other candidate, whose district also disappeared. So that it's not so clear that when we combine a district that the people in that district are well-served to have forced upon them someone they didn't vote for, at least 50 percent of them.

Now, if you would go to the odd numbered scheme that Senator Loeper has proposed, it would leave the incumbent Senator in office for two years. Well, for the balance of the term which would be roughly two, almost three years now until a new Senator could be elected. That would mean that people in that district

would be represented by someone who they didn't choose. By doing it with an even number -- I'm sorry, with an odd number and moving an even number to the district in the east, it meant that an election would happen this spring and now the voters can decide who will represent them in the new district. It seemed to the Chairman that that was a more fair way of deciding who the Senator should be and from what political party, rather than having us preserve incumbency.

Now, I's sure that you can listen to arguments all day one way or the other. I called it as I see it, and yes, there is an element of politics in that decision, and I say it because as I've indicated prior, to suggest otherwise would be just to deny reality and deny the very composition of this Commission.

Now, as to a couple of other points about demographics. When you look at the shift in the loss in population in the Allegheny County area, what we find is that it had little or no effect on the registration of people there, the party registration. So that while the Republican argument was that the Democrats should lose two seats, in fact 10 years ago the registration was roughly 70 percent Democrat, 30 percent Republican. Ten years later, same area looking at it from a jet up high, still 70 percent Democrat, 30 percent Republican. I was hard-pressed to determine why that should mean the loss of an incumbent seat for the Democrats.

Secondly, talking about demographics, it's clear, and from the chart that Senator Loeper has introduced here today, which we marked as Loeper Exhibit

No. 1, the green portion of this shows that the population moved roughly to the east and to the southeast of Pennsylvania. So that when we were going to create a new district, we would try to create it where the people are. Keep in mind, you simply lay down a district on top of people, and there have to be 238,000 in there. When you do that, you find that it comes out, you can put it somewhere in the east. You could put it up around here where you see all this dark green, you could put it down in here at the bottom extreme corner southeast, you could put it somewhere, and what did I do? I entertained proposals and accepted the proposal of the Republican Party for where that district should go. In fact, that district will be comprised of a very predominant majority Republican, I believe 58 percent or so Republi-

can, perhaps higher. 59 percent, perhaps.

So what we've done is tried, as I've suggested, to reflect both the demographics and the notion that people should be represented by someone who they elected and not someone who they didn't elect. So that on balance with the population going east and that seat being clearly a seat that will favor a Republican candidate by very strong voter trends and by very strong registrations, then in the west both parties lost a side. If we had gone the other way we would have the rather anomalous situation of the Allegheny County region having a 70-30 voter registration edge and having a 50-50 party split in terms of the representation in the Senate of Pennsylvania. It didn't seem to the Chairman to be an appropriate thing to do.

As I say, I can't deny that there are appealing arguments to both sides of this, but those were primarily the arguments that persuaded me to do what I have done, at least preliminarily, and indicating to the Senators how I would vote on those issues to make this plan, the one that's before us, before us.

I think that the plan all in all, though it causes great hardship to Senator Frank Pecora, ...

* * *

. . . those kinds of decisions have to be made, I make them. And I, you know, don't relish it, but it certainly is a part of this job and it's one of the reasons why they do bring a neutral in here, and so to those who are adversely affected, our apologies. We'll go on and we'll persevere and may you run again and win again.

All right. Now, are there any further comments on the preliminary plan of reapportionment as presented by Representative Kukovich?

(No response.)

CHAIRMAN CINDRICH: At this time, we'll call for the question. I think we should take this vote via voice.

We'll start with Senator Loeper.

SENATOR LOEPER: Yes, Mr. President.

For all the reasons that I've indicated today, and I think very obviously tried to offer amendments to make my points, as far as the adoption of this preliminary plan, I vote "no."

CHAIRMAN CINDRICH: Senator Mellow.

SENATOR MELLOW: Mr. Chairman, I think you've done an outstanding job, but I disagree with your last vote on the amendment, but notwithstanding that, I think you and Steve and Ken have done an

excellent job on the staff in taking a very difficult job and to the best of your ability putting it together, and I support you on the plan.

CHAIRMAN CINDRICH: Thank you, Senator.

Representative--I guess we'd better be consistent.

Representative Kukovich.

REPRESENTATIVE KUKOVICH: I vote "yes," Mr. Chairman.

CHAIRMAN CINDRICH: Representative Perzel.

REPRESENTATIVE PERZEL: I vote "yes," Mr. Chairman.

CHAIRMAN CINDRICH: The Chairman votes "yes."

That being said, the motion passes, and the preliminary plan of reapportionment for the Commonwealth of Pennsylvania passes four votes to one vote.

Before we adjourn, I am directing that the plan be filed in accordance with the Constitution of the Commonwealth of Pennsylvania, and I think that Mr. Gormley will take care of seeing that that is done before the end of the day.

We will hold a public hearing on Wednesday, October 9, 1991, commencing at 1:00 o'clock[.]

Commonwealth of Pennsylvania
Legislative Reapportionment Commission
612 North Office Building
Harrisburg, Pennsylvania 17120
717-772-3501
FAX 717-772-3503

MINUTES--PUBLIC HEARING
October 9, 1991
1:00 p.m.
Room 8A East Wing, Main Capitol Building,
Harrisburg, Pennsylvania

ROBERT J. CINDRICH, CHAIRMAN

MEMBERS OF THE LEGISLATIVE REAPPORTIONMENT COMMISSION

Senator F. Joseph Loeper
Senator Robert J. Mellow
Representative John M. Perzel
Representative Allen Kukovich (Deputy Commissioner for Representative H. William DeWeese)

Also Present:

Stephen J. Harmelin, Esquire, Chief Counsel
Ken Gormley, Executive Director
David Woods, Chief of Staff to Senate Majority Leader
Stephen MacNett, General Counsel, Senate Republican Caucus
Donna Malpezzi, Counsel to Senate Majority Leader
C.J. Hafner, Counsel to Senate Minority Leader

Mark McKillop, Senate Democratic Research Staff
Scott Casper, Executive Director for the House Reapportionment Office
Stephen Dull, Director, Republican Member Services

The meeting was called to order by Chairman Cindrich. The Chairman issued a reminder concerning the public comment period established by the Pennsylvania Constitution, by which citizens or groups who are interested in providing comments to the Commission may do so by sending their comments in writing to the Commission for a thirty-day period. The deadline for submitting such comments was therefore Friday, October 25, 1991 at midnight. He also announced that anyone interested in obtaining the racial breakdown of any legislative or senatorial district could do so by contacting the Commission Office.

The Chairman announced that an executive session of the Commission had pre-

ceded the public portion of the meeting. At this session the Commission conferred with legal counsel concerning the above deadline, as well as the deadline for filing a final plan. Also discussed was the the [sic] scheduling of further public meetings.

The remainder of the public meeting was devoted to hearing lengthy public testimony concerning the preliminary reapportionment plan submitted to the Secretary of the Commonwealth on September 25, 1991. Testimony was presented, and considered by the Commission, as offered by the following citizens and organizations:

1) Robert Grant, Acting Secretary of the Commonwealth

2) Anthony Martin, Esquire, Attorney for Senator Frank Pecora

3) Dan Torisky, Monroeville

4) Larry Dunn, Allegheny County Commissioner

5) Yvonne Lamanna, Penn Hills School Board

6) Charles Kindle, Penn Hills NAACP

7) Philip Dunn, Staff to Senator Tim Shaffer

8) Frank P. Krizner, Esquire, Butler County Solicitor

9) Lawrence Roberts, Uniontown

10) Francis Zaffina, Westmoreland County

11) Wilbur W. McCutcheon, President, Crescent Township Board of Commissioners

12) Harriet Lewis, Commissioner, Crescent Township

13) Representative Ron Gamble

14) Calvin Allison, House District 70

15) Ada Glessner, House District 70

16) Patricia DeCarlo, Philadelphia Latino Voting Rights Committee

17) Representative Ralph Acosta, House District 180

18) Senator Stewart Greenleaf, Senate District 12

19) Bernard Borine, Cheltenham Township Commissioner

20) Bernard Kanefsky, Lower Moreland Commissioner

21) Louise Bailey, Yeadon Borough, Delaware County

22) David Ennis, Abington Township

23) Richard Glanton, Esquire, Republican City Committee of Philadelphia

24) Joseph Rocks, Former State Representative and Senator

25) Samuel Walters, Assistant General Counsel to the National NAACP

26) Representative Thomas M. Tigue, House District 118

27) Matthew E. Baker, Esquire, Tioga and Potter Counties

28) Louis R. Donahue, Curwensville Borough Council

29) John K. Risser, House District 199

Chairman Cindrich offered closing remarks, indicating that the day of public testimony from such a variety of citizens and organizations was extremely valuable to the work of the Commission. The Chairman then entertained a motion to adjourn. Moved by Senator Mellow.

Seconded by Senator Loeper. Unanimously passed. The meeting concluded at 5:45 p.m.

Respectfully submitted,

/s/
Ken Gormley
Executive Director

COMMONWEALTH OF PENNSYLVANIA
LEGISLATIVE REAPPORTIONMENT COMMISSION

In re: Public Meeting of the Legislative Reapportionment Commission

* * * * *

Stenographic report of hearing held in Room 8A East Wing, Main Capitol Building, Harrisburg, Pennsylvania

Friday, November 15, 1991
10:00 a.m.

ROBERT J. CINDRICH, ESQUIRE, CHAIRMAN

MEMBERS OF LEGISLATIVE
REAPPORTIONMENT COMMISSION

Sen. Joseph Loeper
Hon. Allen Kukovich- (Deputy Commissioner for Hon. H. William DeWeese)

Sen. Robert Mellow
Hon. Thomas P. Gannon- (Deputy Commissioner for Hon. John M. Perzel)

Also Present:

Ken Gormley, Esquire, Executive Director
Stephen J. Harmelin, Esquire, Chief Counsel
Stephen Matthes, Esquire, Asst. to Mr. Harmelin
David Woods, Chief of Staff to Senate Majority Leader
Stephen MacNett, General Counsel, Senate Republican Caucus
Michael Long, Staff to Senate Majority Leader
C.J. Hafner, Counsel to Senate Minority Leader

Mark McKillop, Senate Democratic Research
Scott Casper, Executive Director for the House Reapportionment Office
Stephen Dull, Director, House Republican Member Services

Reported by:
Ann-Marie P. Sweeney, Reporter

ANN-MARIE P. SWEENEY
3606 Horsham Drive
Mechanicsburg, PA 17055
717-732-5316

* * *

CHAIRMAN CINDRICH: All right. Now we'll call for the vote on Final Senate No. 1 and Final House No. 1.

Senator Loeper.

SENATOR LOEPER: I vote "no."

CHAIRMAN CINDRICH: Senator Mellow.

SENATOR MELLOW: No.

CHAIRMAN CINDRICH: Representative Kukovich.

REPRESENTATIVE KUKOVICH: Let's try "yes."

CHAIRMAN CINDRICH: Representative Gannon.

REPRESENTATIVE GANNON: Yes.

CHAIRMAN CINDRICH: The Chair votes "yes."

The Reapportionment Commission has thereby adopted a plan of reapportionment for the Commonwealth of Pennsylvania by a 3 to 2 vote.

I wish to advise members of the public that any person aggrieved by the -- any aggrieved person may file an appeal from the final plan directly with the Supreme Court within 30 days of the filing thereof. We plan to file that today. If the person aggrieved establishes that the final plan is contrary

. . . .

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January 28, 1992

Charles W. Johns, Esquire
Prothonotary
Supreme Court of Pennsylvania
468 City Hall
Philadelphia, PA 19107

Re: Andrews, et al v. Pennsylvania Legislative Reapportionment Commission, No. 190 E.D. Misc. Dkt. 1991, et al.

Dear Mr. Johns:

During arguments on the challenges to the Legislative Reapportionment Commission's final reapportionment plan, there appeared to be some confusion as to the residency requirements applicable to

state legislators. This is to confirm that Article II, § 5 of the Pennsylvania Constitution requires senators to live in the district they represent during the term of their service. A copy of this letter is being sent to all counsel this date.

Very truly yours,

/s/
Barbara A. Brown
Counsel to the Pennsylvania Legislative Reapportionment Commission

BAB/jmy

cc: (See following page)

Dilworth, Paxson, Kalish & Kauffman
To: Charles W. Johns, Esquie

cc: Robert J. Cindrich, Esq.
Kenneth Gormley, Esq.
Hon. F. Joseph Loeper
Hon. Robert J. Mellow
Hon. H. William DeWeese
Hon. John M. Perzel
Russell F. Walker
Nicholas Sellers, Esq.
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